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**(2021) 01 KL CK 0598**

**In the High Court Of Kerala**

**Case No : Writ Petition (C) No. 27970 Of 2020**

Ameena Sherine E And Ors

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

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**Date of Decision :** 27-01-2021

**Acts Referred:**

**Citation :** (2021) 01 KL CK 0598

**Hon'ble Judges :** N. Nagaresh, J

**Bench :** Single Bench

**Advocate :** Kodoth Sridharan, K.P. Muhammad Arif, Abdul Jaleel, Joseph Kodianthara, V. Abraham Markos, Isaac Thomas, Sharad Joseph Kodianthara, Gopikrishnan Nambiar, P. Vijayakumar

**Final Decision :** Disposed Of

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## **Judgement**

1. The petitioners, who are legal heirs of late Sharafudeen who died in an international air carrier accident on 07.10.2020, have approached this Court

seeking to direct the respondents to pay the admitted dues to the petitioners at a modest estimate as done in Exts.P2 and P7 without insisting for a

settlement voucher in view of Rule 26 of Schedule 3 of the Carriage by Air Act and the principles stated in paragraph 49 in National Insurance

Company Limited v. M/s. Bhogura Polyfab Private Limited [(2009) 1 SCC 267] and grant liberty to the petitioners to approach the Consumer Forum

under the Consumer Protection Act as held in Trans Mediteranian Airways v. Universal Exports [(2011) 10 SCC 316] instead of civil courts as in

Ext.P2. The petitioners further seek to direct the respondents to pay the liability of Rs.1 lakh Special Drawing Right (now enhanced to Rs.1,13,100/-

Special Drawing Right) as death compensation of deceased Sharafudeen and for loss of baggage making a total of Rs.1,14,231/- Special Drawing

Rights under Rules 21(1) and 22(1) of the 3rd Schedule of the Act and cargo and baggage claim along with interest over and above the second tier

admitted liability and the injury compensation claim of petitioners 1 and 2.

2. When this writ petition came up for hearing on 12.01.2021, the learned Standing Counsel for the 2nd respondent pointed out that the petitioners have

not submitted any claim to the 2nd respondent. The learned counsel for the petitioners, in answer, submitted that the 2nd respondent accepts claim

applications only along with a Receipt, Discharge and Indemnity Form duly signed and if the petitioners sign such receipt, they will not be able to

dispute the adequacy of the amount offered by the 2nd respondent. Thereupon, the petitioners were directed by this Court to submit their claims

immediately and respondents were directed to consider the claim and report the probable amount of offer.

3. Today, when this writ petition was taken up, learned Standing Counsel appearing for the 2nd respondent submitted that the application for

compensation in respect of 1st petitioner's daughter (2nd petitioner herein) received by the 2nd respondent was complete, whereas for the claims in

respect of the deceased and in respect of the 1st petitioner, the 2nd respondent has sought further documents/proof from the petitioners.

4. The learned Standing Counsel for the 2nd respondent submitted that on the basis of the claim in respect of the 2nd petitioner-daughter, the 2nd

respondent has offered Rs.1,51,08,234/- as compensation. The petitioners submitted that they are satisfied by the said amount offered by the 2nd

respondent.

5. The learned counsel for the petitioners urged that the 2nd respondent may be directed to pay the minimum admitted amounts towards compensation

for the death of the deceased and for injuries of the 1st petitioner. This Court finds that even the applications of the petitioners in respect of those

claims are not complete inasmuch as the 2nd respondent has sought further documents. If the 2nd respondent considers those claims also and make

offers to the satisfaction of the petitioners, there may not require any adjudication of the issue.

In the circumstances, this writ petition is disposed of directing the 2nd respondent to disburse the amount of Rs.1,51,08,234/- in respect of

compensation offered in respect of the 2nd petitioner, to the petitioners

forthwith, in accordance with law. If the petitioners are aggrieved/dissatisfied by the offer made by the 2nd respondent in respect of compensation for the death of Sharafudeen or for the injury of the 1st petitioner, it is made clear that the petitioners will be at liberty to approach this Court or any other appropriate legal forum for redressal of their grievances, in accordance with law.